



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	M	M-7508865 DOCKET NO.
09/500,736	02/09/00	ROGONE		

PM82/1221

SANTOS, R EXAMINER

Theodore P Lopez
Attorney for Applicant(s)
SKJERVEN MORRILL MacPHERSON FRANKLIN & F
25 Metro Drive Suite 700
San Jose CA 95110-1349

ART UNIT
3626

PAPER NUMBER

12/21/00

DATE MAILED:

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	09/500,736	Applicant(s)	Rogone et al.
Examiner	R. Santos	Group Art Unit	3628

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 2/09/00.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-20 are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 1-20 are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on _____ is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). 2 Interview Summary, PTO-413

Notice of References Cited, PTO-892 Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

Art Unit: 3628

DETAILED ACTION

Claim Objections

✓ 1. Claim 6 is objected to because of the following informalities: In line 3, "infant" should be changed to --neonate--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,351,348 to Beger. As concerns claims 1, 13, 15, and 18, Beger '348 shows the claimed limitations of a "device" (1) for supporting and positioning a neonate, the device comprising a "substantially conformable member" (2); and a "plurality of support members" (5a-5d) coupled to a portion of the conformable member to define a torso area thereon, each support member being movable from a first position to a second position to facilitate the repositioning of the neonate placed on the conformable member from a first posture to a second posture in response to the movement of at least one of the support members (see Figure 1; column 3, lines 27-41 & 51-61). As concerns claims 2, 16, 17, and 19, the reference also discloses a condition wherein the

Art Unit: 3628

positioning of the neonate is accomplished without direct physical contact between a caregiver and the neonate (see column 2, lines 12-21 & 24-32).

With regards to claim 3, the reference is considered to show the use of “fastening means” (3a-3d, 7a-7d) for coupling each of the support members to a portion of the conformable member in Figure 3 and in column 3, lines 30-39 & 61-65. As concerns claim 4, the reference is considered to show a condition wherein the fastening means comprises a “plurality of hollow sleeves” (3a-3d), coupled to a portion of said conformable member (2), wherein each hollow sleeve has an open end to insertably receive one of the plurality of support members (5a-5d) in Figures 1 & 3 and in column 3, lines 30-41. With regards to claim 5, the reference discloses a condition wherein each of the support members (5a-5d) is removably coupled to the conformable member (see column 5, lines 7-13). As concerns claims 6 and 7, the reference discloses a condition wherein the conformable member (2) comprises a “material having a density sufficient for cushioning the neonate” and a “structure taken from the group consisting of a padded blanket and a padded mattress” (see column 2, lines 16-21 and column 3, lines 27-29).

With regards to claims 8 and 9, the reference discloses a condition wherein the plurality of support members comprises a “transverse support member” (5d) coupled substantially transversely along a head end of the conformable member; and a “pair of lateral support members” (5a, 5b) coupled substantially along opposing lateral edges, the pair of support members defining a torso area on the conformable member (see Figures 1 & 3 and column 3, lines 39-41). As concerns claims 10 and 11, the reference also discloses a condition wherein each

Art Unit: 3628

of the plurality of support members comprises a “sealable collapsible bag” having a filler material taken from the group consisting of “polystyrene beads, down feathers, resilient foam, air, liquid, flaxseed and silicon gel” (see column 3, lines 39-41 & 45-50 and column 4, lines 64-66). With further regards to claim 12 and as concerns claim 14, the reference is considered to show a condition wherein the neonate is supported on a portion of the conformable member in either “a supine, a prone, and a side-lying position” in column 2, lines 25-33 and in column 4, lines 38-41. As concerns claim 20, the reference discloses the step ¹ of “removing a support member” (5¹c) from the positioner (see Figure 4 and column 4, lines 38-41).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- 1) U.S. Patent No. 5,916,089 to Ive
- 2) U.S. Patent No. 5,826,287 to Tandrup
- 3) U.S. Design Patent No. 389,359 to Nowak
- 4) U.S. Patent No. 5,581,832 to Bridley
- 5) U.S. Patent No. 5,499,418 to Tan et al.
- 6) U.S. Patent No. 5,455,973 to Brumfield et al.
- 7) U.S. Design Patent No. 353,494 to Beger
- 8) U.S. Patent No. 5,367,730 to Sher

Art Unit: 3628

- 9) U.S. Patent No. 5,357,642 to Clute
- 10) U.S. Design Patent No. 343,756 to Sher
- 11) U.S. Patent No. 5,279,237 to Alivizatos
- 12) U.S. Patent No. 5,272,780 to Clute
- 13) U.S. Patent No. 5,216,772 to Clute
- 14) U.S. Patent No. 5,193,238 to Clute
- 15) U.S. Patent No. 5,165,130 to Wendling
- 16) U.S. Patent No. 5,088,139 to Bloom
- 17) U.S. Patent No. 5,035,013 to Bloom
- 18) U.S. Patent No. 4,873,734 to Pollard
- 19) U.S. Patent No. 4,754,509 to Pollard
- 20) U.S. Patent No. 4,607,402 to Pollard
- 21) U.S. Patent No. 4,383,713 to Roston
- 22) U.S. Patent No. 3,924,282 to Bond

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Santos whose telephone number is (703) 308-7469. The examiner can normally be reached on Mondays through Fridays from 10:30 a.m. to 7:00 p.m.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703)308-2168.

Art Unit: 3628

R.S.

December 17, 2000

Robert L. Dentor
Patent Examiner
Technology Center 3600